

STATE HEALTH COUNCIL

November 16, 2016

A meeting of the State Health Council was called to order by Chairman Wade Peterson at 9:00 a.m. on Wednesday, November 16, 2016 in Conference Room 212 of the Judicial Wing, State Capitol, Bismarck, ND.

Members present:

Wade Peterson, Mandan, Chairman
Genny Dienstmann, Bismarck, Vice Chairman
Leona Koch, Raleigh, Secretary
Howard Anderson, Turtle Lake
Mike Jones, Bismarck
Jerry Jurena, Bismarck
Gordon Myerchin, Grand Forks
Jennifer Schaeffer, Medora
Dennis Wolf, Dickinson (*by phone*)

Members absent:

Greg Allen, Jamestown
Duane Pool, Bismarck

Staff members present:

Terry Dwelle, MD, State Health Officer
Arvy Smith, Deputy State Health Officer
Grace Njau, Community Health Section
Londa Rodahl, Recording Secretary
Bobbie Will, Primary Care Office

Others present: See ATTACHMENT A

Minutes

HOWARD ANDERSON MOVED THE APPROVAL OF THE AUGUST 9, 2016 MINUTES AS DISTRIBUTED. SECOND BY JERRY JURENA AND CARRIED.

Legislation and Budget

Arvy Smith reviewed the proposed 2017-2019 Department budget summary and the 2017-19 budget reductions. She also provided information related to Measure 5, which passed on November 8, related to medical marijuana. She noted that other than legislation related to medical marijuana, there will also be:

- Getting the strict penalty for dentists in the loan repayment program in line with those of the other loan repayment programs;

- Removing from the duties of the Health Council the requirement to monitor overall health care costs and quality of health care in the state and publish in a report; and
- Remove the law requiring the Health Department to purchase vaccine for public health units as opposed to billing insurance, consistent with Governor Dalrymple's recommendation.

Loan Repayment Programs Manuals

Bobbie Will presented the manuals for Primary Care—Part I, Behavioral Health—Part 2, Dentists, and Veterinarians.

JERRY JURENA MOVED THE APPROVAL OF THESE MANUALS AS WRITTEN. SECOND BY GORDON MYERCHIN AND CARRIED.

JERRY JURENA MOVED THAT THE EFFECTIVE DATE FOR THESE MANUALS WILL BE TODAY (NOVEMBER 16, 2016). SECOND BY MIKE JONES AND CARRIED.

State Loan Repayment Program (SLRP) Applications

Bobbie Will reported having received and approved three new and one continuation application for the federal state loan repayment program. These awards do not require Health Council approval since we must follow federal regulations; however, the Department wishes to keep the Council apprised of these applications. The applications were for three nurse practitioners and one physician assistant in the cities of Wishek, Ashley and Grafton. The total contract amount of federal funds is \$143,763, which is the same as the community match, for a total of \$287,526. No further awards will be allowed until the SLRP carryover of \$160,500 is approved by HRSA.

JERRY JURENA MOVED THAT THE COUNCIL RECEIVED AND FILED THE INFORMATION OF THE FEDERAL STATE LOAN REPAYMENT PROGRAM APPLICATIONS. SECOND BY JENNIFER SCHAEFFER AND CARRIED.

Bobbie Will updated the Council on these Primary Care Office items:

- The Department had a request from Sterling Stevens, DDS, to be released from his loan repayment contract due to a disability, which is allowed in the law. Dr. Stevens began practicing in Cavalier, ND, in January 2013 and had four months remaining on his contract. He was released from his contract on September 8, 2016.

HOWARD ANDERSON MOVED THE APPROVAL TO RELEASE STERLING STEVENS, DDS, FROM HIS DENTAL LOAN REPAYMENT CONTRACT DUE TO A DISABILITY. SECOND BY JERRY JURENA AND CARRIED.

- April Robinson, DDS, who was approved in April 2016 for the state loan repayment program, was hired under a Dickinson dental practice. She is now starting her own Dickinson practice and will be operating under that same contract.
- The Primary Care Office links and applications were all on the University of North Dakota website, they will now be on both the Health Department's and UND's. The Department will manage the state and federal loan repayment programs and UND will manage the Workforce National Health Services Corps shortage designations and J-1 visa waiver programs.
- A question has been added to the loan repayment applications, at the request of the Loan Repayment Manuals Subcommittee, which will ask applicants to write a maximum 250-word response to: Why should the state of North Dakota invest in you?

Section Update

Grace Njau provided information on the PRAMS (Pregnancy Risk Assessment Monitoring System) program in the Community Health Section.

Darrell Dorgan desired to speak to the Council.

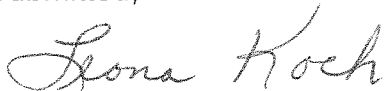
Wade Peterson questioned the Council as to whether they wished to allow Mr. Dorgan to speak since he was not on the agenda.

HOWARD ANDERSON MOVED TO EXTEND THE AGENDA AND ALLOW DARRELL DORGAN TO SPEAK. SECOND BY JENNIFER SCHAEFFER AND CARRIED.

Mr. Dorgan distributed and referenced ATTACHMENT B.

The meeting adjourned at 10:30 a.m.

Submitted,



Leona Koch, Secretary

STATE HEALTH COUNCIL MEETING ATTENDANCE SHEET

ATTACHMENT A

North Dakota Department of Health
SFN 8104

Date: November 16, 2016

Please PRINT

[illegible]



"Watchdogs of the Prairie"

Dakota Resource Council • 1200 Missouri Ave., Ste. 201 • Bismarck, ND 58504
Phone (701) 224-8587
www.drcinfo.org

September 8, 2016

Governor Jack Dalrymple
600 East Boulevard Avenue
Bismarck, ND 58505-0100

Dear Governor:

On August 9, 2016, the State Health Council held a re-hearing to determine the future of divisive new rules governing the handling of radioactive waste. The re-hearing was forced by legal action brought by the North Dakota Energy Industry Waste Coalition (NDEIWC) and Dakota Resource Council (DRC).

Unfortunately, it appears Health Department staffers intentionally misled Health Council members during the hearing.

Using half-truths and deceptive information, the Health Council voted to ratify deeply flawed regulations that will save the oil industry millions while endangering the lives of people who live here and cost neighboring property owners their economic life-line in lost equity.

Because of the actions of Health Department officials, NDEIWC and DRC are seeking the following:

- A formal inquiry with potential legal implications for those involved in providing the misleading information.
- The suspension of officials responsible until the investigation is complete;
- A review of the relationship between the North Dakota Petroleum Council, radioactive and toxic waste companies, and Health Department officials who are charged with regulating them.

- The fate of the of thousands of tons of radioactive waste. McKenzie County officials say the information of the companies involved in trying to dump the radiated loads of waste was provided to the Health Department. Why was there no follow-up.
- A review of the relationship between an advertising agency representing at least one company recently found illegally dumping waste, and state agencies in charge of protecting the health and welfare of North Dakota residents.

To be fair and balanced, an inquiry would have to be conducted by an appointed, outside investigator. Normally, the Office of Attorney General could investigate allegations. But in this case, DRC and NDEIWC have been forced to initiate legal action twice against the Health Department and the Office of Attorney General in an effort to force them to follow statutes regarding open meetings on this very subject.

There are numerous reasons to investigate what happened at the August re-hearing where the new regulations requested by the oil industry were again approved. A transcript of the meeting discloses a Health Department staffer told Health Council members, "none of the landfills in North Dakota currently are accepting TENORM waste." TENORM is an acronym often used by regulators because it sounds friendlier than radioactive waste.

However, according a September , 2016 Bismarck Tribune expose' by Lauren Donovan, Health Department officials in May and June found three sites that had been accepting illegal radioactive waste (TENORM) that was up to 80 picocuries (that's 30 picocuries higher than even the new regulations would allow). This contradicts testimony provided Health Council members that no landfills were accepting radioactive waste and is indicative of a deliberate cover-up by the Health Department. Had they known about these three dangerous cover-ups, would Council members have voted for the rule change asked for by the industry and lobbied for by the Health Department? We won't know unless an inquiry takes place.

Please imagine asking a Cass County neighbor in December, "good sugar beet crop?" And the farmer replying, "Currently we're not growing beets." Technically correct except he has tons stacked at American Crystal and is busy planning for next spring's beet planting.

Clearly the person who told the Health Council no radioactive waste was being accepted at dump sites was aware of the discoveries in May and June by his department. If he wants to hang his hat on the word "currently" he's simply being intentionally evasive and the question, then becomes whom and for whose benefit was the cover-up instigated?

Thousands of tons of toxic and radioactive waste generated from oil drilling activity the past six years cannot be accounted for. The illegally dumped radioactive waste, found at a dump site near Alexander and reported in the Tribune story, was likely turned away from a municipally owned site in McKenzie County. In 2014-2015, hundreds of truck loads were tested, found to contain radioactive waste and rejected by the McKenzie County site. When a Health Department official was asked what was happening to the waste rejected in McKenzie County he replied, "I don't know. We're not in charge of tracking waste."

Another health department official (who apparently can also be labeled a special attorney general) was asked about not approving the new proposed rules and if they could be invalidated. He replied, "Invalidating the TENORM rules would also remove the requirements for testing, tracking, and reporting. So in essence, everything would be thrown out." Governor, that simply isn't true. The Health Council had discretion to adopt portions of the rules to which no adverse comments had been made, such as cradle-to-grave tracking.

It's quite clear by any reasonable standard if the new rules had not been adopted, the old 5% picocurie standard could and would have stayed in effect.

The hearing itself in August, 2015 was a sham; an embarrassment. Health Department officials confidently strode into the room with oil industry lobbyists (the very people who will financially benefit from the rule change). Due to prearranged plans, the Chairman of the Health Council conveniently announced opponents of the new plan could have only 20-minutes to testify.

There were about 75 people who traveled nearly 200 miles to testify against the changes proposed by the Health Department and promoted by the petroleum industry. They were there to testify their health is endangered and their economic lives are being being shattered (want to buy house and raise kids next to a radioactive waste dump?). Some were willing to testify about health problems they already blame on radioactive (excuse me TENORM) dust blowing off the site and into their lives.

Among the most fascinating testimony from the initial hearings in January, 2015 was from a Tioga doctor that a urine samples in from northwestern North Dakota were found with traces of radioactive waste. Health Departments across the country would have gone apoplectic by the mere thought of radioactive waste in medical samples. This testimony is on the Health Council website from the January 2015 hearings and comments were simply ignored. Are you looking at another Flint, Michigan?

It appears your Health Department, with encouragement of those who will benefit greatly sold a cradle-to-grave tracking system. However, the enforcement history of the Health Department indicates there will be little if any enforcement. They also appear to be allowing oil companies to determine when radioactive waste goes

above 50 picocuries at a site. Further, the regulations also do not require dump sites to have inspectors on site if limited to accepting 25 thousand tons per year or less. This is a blatant way to avoid any form of inspection and was likely included as a gift to the oil industry.

Quick thought; would you live within miles of a radioactive dump site that does not have to be inspected? Would neighboring property values and health be of no concern to you?

It's also unclear if any of the written testimony submitted by members of the public for the August 9, 2016 re-hearing was ever given to members of the Health Council in advance of the meeting. It certainly does not appear so by the lack of questions.

Governor, we're both veterans of the coal tax and reclamation battles of the 1970's. It was a dynamic political debate that today nearly everyone is proud of. It resulted in legislation that was used as an example for federal reclamation laws. Through good debate, compromising legislative action, North Dakota became the national leader in reclamation standards. What could have become a spoil bank wasteland, is land that is being returned to productivity.

It would be wonderful to see the same happen with the oil industry but so far that hasn't happened. Legislative and executive leadership has been weak, and willfully insensitive to public health and it has resulted in no enforcement of existing environmental standards and an almost dead-run towards much of Northwestern North Dakota being declared a "Super Fund" site in the next five years.

Today's economic boom is tomorrow's clean-up obligation. It also part of your legacy.

Sincerely,



Darrell Dorgan
ND Energy Industry Waste Coalition



Don Morrison
Dakota Resource Council